



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/629,024	07/28/2003	Peter G. Webb	10003513-2	7639

7590 10/17/2007
AGILENT TECHNOLOGIES, INC.
Legal Department, DL429
Intellectual Property Administration
P. O. Box 7599
Loveland, CO 80537-0599

EXAMINER

GROSS, CHRISTOPHER M

ART UNIT	PAPER NUMBER
----------	--------------

1639

MAIL DATE	DELIVERY MODE
-----------	---------------

10/17/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/629,024

Applicant(s)

WEBB, PETER G.

Examiner

Christopher M. Gross

Art Unit

1639

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 02 August 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☒ Applicant's reply has overcome the following rejection(s): 35 USC 102(b) over Baldeschwieler.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 17,19-23,25-31,33,34.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

ADVISORY ACTION

Continuation of 7

Withdrawn Rejections

The rejection of claims 17,18,21,26,29,30,34 under 35 U.S.C. 102(b) as being anticipated by **Baldeschieler et al** (US Patent 5847105 – IDS entry 2/21/2006) is hereby withdrawn in view of applicant's persuasive arguments.

The rejection of claims 17,18, 21, 26,29,30,34 and 24,32,35 under 35 U.S.C. 103(a) as being unpatentable over **Baldeschieler et al** (US Patent 5847105 – IDS entry 2/21/2006) in view of **Bass** (US Patent 6420180) is hereby withdrawn in view of applicant's persuasive arguments regarding the 35 USC 102 rejection of Baldeschieler et al.

Maintained Claim Rejection(s) - 35 USC § 102

Claims 17, 18, 20-23, 25, 26, 28, 29-31, 33-34 are rejected under 35 U.S.C. 102(a or e) as being anticipated by **Gamble et al** (US Patent 6001309).

Response to Arguments

Applicant argues, see p 6-9 (8/2/2007) that Gamble et al do not teach (a) "deposition of at least one set of drops from a corresponding same dispenser onto a substrate for each of multiple sets of neighboring features, so as form the array with feature sets from drops deposited by respective different dispensers" wherein (b) "a distance between at least two of the neighboring sets of features is greater than an average distance between the sets"

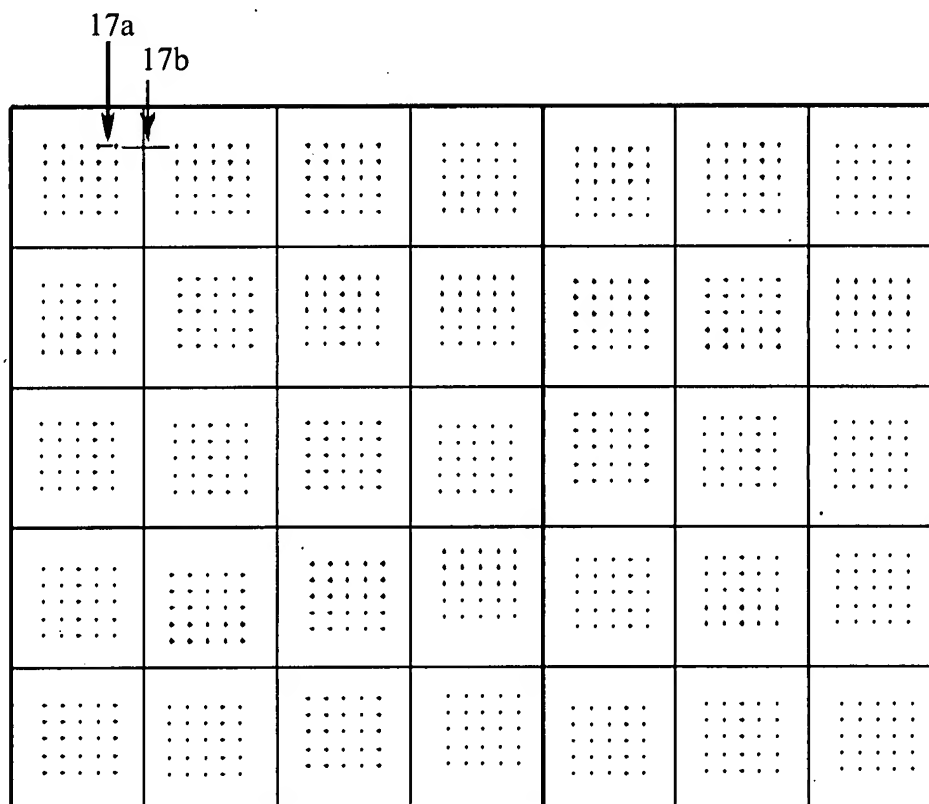
Applicant's arguments have been considered, but they are not persuasive for the following reasons.

(a) In regard to the dispensers, it is the Examiner's position that the phrases "same dispenser," and "respective different dispenser" do not serve to distinguish the claimed subject matter from that of Gamble, especially in view of column 9, lines 15-18 of Gamble et al which states "the groups of jets can provide a plurality of spots being formed simultaneously, concurrently or consecutively," as mentioned in the office action mailed 6/29/2006, in concert with column 10, lines 2-6 which states, "during operation, each jetting device in turn may provide for a plurality of spots of the same reagent at different sites on the substrate, so that each portion of the substrate has the same reagent at comparable places at each array."

In regard to features, it is the Examiner's position that the phrases "sets of neighboring features" and "feature sets" do not serve to distinguish the claimed subject matter from that of Gamble. Applicant seems to allude, see p 7 (8/2/2007) that the neighboring features must be different however it is noted on p 7 lines 3-4 (Applicants Remarks, 6/29/2006) that deposited moieties may be the same, therefore the 2-3 x redundancy of Gamble would provide neighboring same features. Clarification on the record is requested.

(b) In regard to distances between the features, it is the Examiner's position that, in considering Gamble et al as a whole, figure 6 represents a work-in-progress with the first set of neighboring features shown therein, however once finished the array would appear as shown below:

Art Unit: 1639



Notably, distance $17b > 17a$, such as set forth in figure 4 in the present application.

Maintained Claim Rejection(s) - 35 USC § 103

Claims 17, 18, 20-23, 25, 26, 28, 29-31, 33-34 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Gamble et al** (US Patent 6001309) in view of **Suovaniemi et al** (US Patent 4215092).

Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Gamble et al** (US Patent 6001309) in view of **Suovaniemi et al** (US Patent 4215092) as applied to claims 17, 18, 20-23, 25, 26, 28, 29-31, 33-34 and 19 above, and further in view of **Quinn et al** (US Patent 4685998)

Response to Arguments

Art Unit: 1639

Applicant does not offer further arguments regarding the above obviousness rejections beyond what was set forth with regard to the 35 U.S.C. § 102 rejection. To the extent that Applicant is merely repeating their previous argument, the Examiner contends that those issues were adequately addressed in the above sections, which are incorporated in their entireties herein by reference.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher M. Gross whose telephone number is (571)272-4446. The examiner can normally be reached on M-F 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. Douglas Schultz can be reached on 571 272-0763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Christopher M Gross
Examiner
Art Unit 1639

cg

/Jon D. Epperson/
Primary Examiner, AU 1639